

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

| | | |
|-------------------|---|---------------------|
| STATE OF DELAWARE |) | |
| |) | |
| V. |) | DEF. ID: 1009021947 |
| |) | |
| SCOTT GINEGAW, |) | |
| |) | |
| Defendant. |) | |

ORDER

On this 2nd day of March, 2011, upon consideration of the State’s Motion for Reconsideration, the Defendant’s Response to said motion, the transcript of the hearing and the record in this case, it appears that:

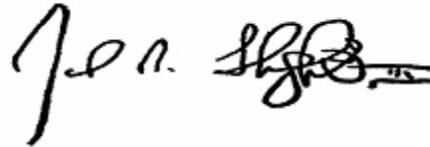
1) The Court referred a Motion for Bill of Particulars to Superior Court Commissioner Mark S. Vavala pursuant to 10 Del.C. §512(b) and Superior Court Rule 62 for proposed findings of facts and conclusions of law.

2) The Commissioner entered an order granting the defendant’s Motion for Bill of Particulars on January 31, 2011 upon concluding that under the particular circumstances presented in this case -- where the discovery did not provide any indication regarding the nature of the force or threat of force utilized

by the defendant to justify a charge of Robbery 2nd Degree -- it was reasonable to require the State to supply a limited Bill of Particulars to address that issue.¹

NOW THEREFORE, after careful and *de novo* review of the record in this action, and for reasons stated on the record by the Commissioner on January 31, 2011, The State's Motion for Reconsideration of Commissioner's Order is **DENIED.**

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Joseph R. Slights, III". The signature is stylized and cursive.

Joseph R. Slights, III, Judge

c: Prothonotary – Original
The Honorable Mark S. Vavala
Matthew Frawley, Esquire
Beth D. Savitz, Esquire

¹The Court notes that, in instances where discovery or other matters in the record (*e.g.* a preliminary hearing transcript) reveal a factual element of a charge, a bill of particulars may not be necessary. *See State v. Goldborough*, 2000 WL 706790 (Del. Super. Ct. Feb. 10, 2010). In other words, the mere fact that the indictment of a Robbery 2nd charge alleges only that the defendant used or threatened the immediate use of force, standing alone, would not require that the indictment be supplemented by a bill of particulars.